

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
CIVIL ACTION NO. 3:23-CV-00284-RJC-SCR**

DEVAL DIMITRI LINEBERGER, )  
                                )  
Plaintiff,                 )  
                                )  
v.                            )  
                                )  
THE UNIVERSITY OF NORTH   )  
CAROLINA SYSTEM, et. al., )  
                                )  
Defendants.                )

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**ORDER**

**THIS MATTER** is before the Court on the “Defendants’ Motion to Dismiss” (Doc. No. 27) filed April 04, 2025. Pro se Plaintiff’s response was due on April 18, 2025. Plaintiff has not responded to the Motion.

The District Court has the inherent authority to dismiss a case for failure to prosecute and Rule 41(b) “provides an explicit basis for this sanction.” Doyle v. Murray, 938 F.2d 33, 34 (4th Cir. 1991). Since dismissal is a severe sanction, the Court must exercise this power with restraint, balancing the need to prevent delays with the sound public policy of deciding cases on their merits. Dove v. CODESCO, 569 F.2d 807, 810 (4th Cir. 1978). The Fourth Circuit requires a trial court to consider four factors before dismissing a case for failure to prosecute: “(1) the plaintiff’s degree of personal responsibility; (2) the amount of prejudice caused the defendant; (3) the presence of a drawn out history of deliberately proceeding in a dilatory fashion; and (4) the effectiveness of sanctions less drastic than dismissal.” Hillig v. Comm’r of Internal Revenue, 916 F.2d 171, 174 (4th Cir. 1990).

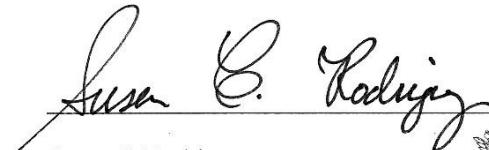
Accordingly, prior to recommending to the District Judge that this case be dismissed for failure to prosecute, the Court will allow Plaintiff an opportunity to show cause why this matter should not be dismissed.

**IT IS THEREFORE ORDERED THAT:**

1. On or before June 9, 2025, Plaintiff shall file a response to the pending Motion to Dismiss and **SHOW CAUSE** why the Complaint should not be **DISMISSED** for failure to prosecute this action. Plaintiff is warned that failure to make a timely response to this Order to Show Cause may result in **DISMISSAL** of this case **WITH PREJUDICE**.
2. The Clerk is directed to send copies of this Order to Show Cause to the pro se Plaintiff, to defense counsel, and to the presiding District Judge.

**SO ORDERED.**

Signed: May 8, 2025



Susan C. Rodriguez  
United States Magistrate Judge

